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September 22, 2010

Timothy A. Frazier
Designated Federal Officer
U.S. Department of Energy
1000 Independence Avenue, SW.
Washington, DC 20585

via email: CommissionDFO@nuclear.energy.gov

Re: Comments—Transportation & Storage Subcommittee

Dear Mr. Frazier:

I am writing to submit written comments for tomorrow's Transportation & Storage Subcommittee meeting. I will be unable to attend any of the BRC meetings in person, but please include my comments in the record of your decision and consider them in your deliberations.

For background, I am attaching a copy of an article that I wrote several years ago titled, *'TRU' Cooperative Federalism: Radioactive Waste Transportation Safety in the West, an Experiment on the Frontiers of Cooperative Regulation*, 22 J. LAND RESOURCES & ENVTL. L. 41 (2002). While this article does not refer directly to spent nuclear fuel transportation safety, and while it was published nearly ten years ago, I believe the concerns raised remain relevant to your inquiry. The questions posed in the article have been cited both in the United States and abroad as legitimate policy-making concerns. As far away as New South Wales, for example, critics cited the concerns raised in the article in their opposition to a similar nuclear waste transportation plan. See Submission to the NSW Parliamentary Inquiry into the Transportation & Storage of Nuclear Waste, Sutherland Shire Council (15 AUGUST 2003), available online at www.ssec.org.au/resources/annual_reports/2001/index.htm (accessed Sept. 22, 2010). Therefore, I encourage you to direct your staff to read the article, conduct their own research, and make a thorough inquiry into the broad, general question: "Who governs radioactive waste transportation safety in the United States?"

In addition to my general concern about the illusory state of regulatory authority in the field of radioactive waste transportation safety, I have three specific concerns that I hope you will investigate thoroughly and resolve during the course of your inquiry.

First, can you quantify and locate the spent fuel shipments that will ensue in the event of a nationwide shipment campaign to a central repository? Can you overlay these with the number and location of shipments of other forms of radioactive waste (Low-Level Waste, Mixed Waste, Transuranic Waste, etc.)? And, can you describe the duration of radioactive waste shipments in each of these categories (when did they begin, and how long will they continue, i.e., only until current reactors are decommissioned, indefinitely, forever, etc.)? My own view is that the segmentation of the different categories of radioactive waste and different shipment campaigns tends to trivialize what in some communities is experienced as an incessant and growing stream of radioactive waste shipments. In other words, communities along the transportation routes experience the cumulative impact of all categories of radioactive waste shipments, and your inquiry should likewise consider the cumulative impact of any additional spent fuel shipments.

Second, I have reviewed the comments of the Prairie Island Band regarding their wish to be rid of the radioactive materials stored in their territory. I am similarly familiar with the history of attempts to site a private spent fuel repository on the Skull Valley Goshute Reservation. Both cases deserve the most searching inquiry by the Commission. My own personal view is that the United States owes a trust obligation to all affected Native American communities—including those through whose territory waste will be transported—which must be met without regard to the creation of a central, national spent fuel repository. While the trust obligation might require the removal of radioactive waste from Prairie Island, it does not require the creation of a national spent fuel repository. While the trust obligation may require economic and social development for the Skull Valley Goshutes, it does not require the siting of a for-profit spent fuel repository on their Reservation. And, the trust obligation may require the United States to route spent fuel shipments around the territory of a number of Tribes. In all of these scenarios, the Commission has a duty to consult meaningfully with all affected Tribes.

Third, after reviewing the materials submitted in the Commission's meetings to date, I believe your witness-selection omits not only the perspective of communities affected by repository siting decisions but also the perspectives of those living along potential transportation routes. Incorporating the viewpoints of communities along current and future radioactive waste transportation routes presents an obvious logistical challenge for the Commission. Eliciting input from such communities would require substantial outreach and public awareness activities. But, the Commission should not allow logistical challenges to thwart the democratic input of communities that are bound to experience negative impacts from a nationwide spent fuel shipment campaign.

In comparison to recorded human history, the hazardous life of spent nuclear fuel is practically forever. And, in comparison to the more obvious hazardous of everyday life, the invisible carcinogenic and mutagenic properties of spent nuclear fuel are practically inconceivable. These basic facts make your inquiry extremely important. Throughout your inquiry, I hope you will remember your responsibility to the many future generations who are relying on your foresight.

Thank you for considering my concerns.

Sincerely,

Bern Haggerty

Attachment: Radioactive Waste Transportation Article